



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/551,319	09/29/2005	Athanassios Tzikas	4-22868/A/PC/T	6533
324 7590 04/27/2009 JoAnn Villamizar Ciba Corporation/Patent Department 540 White Plains Road P.O. Box 2005 Tarrytown, NY 10591				
EXAMINER KHAN, AMINA S				
ART UNIT		PAPER NUMBER		
1796				
NOTIFICATION DATE		DELIVERY MODE		
04/27/2009		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

andrea.dececchis@ciba.com  
deborah.pinori@ciba.com  
sonny.nkansa@basf.com

### Office Action Summary

**Application No.**

10/551,319

**Applicant(s)**

TZIKAS ET AL.

**Examiner**

AMINA KHAN

**Art Unit**

1796

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 April 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,5 and 7-12 is/are pending in the application.
- 4a) Of the above claim(s) 8,9 and 12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,5,7,10 and 11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 16, 2009 has been entered.
2. Claims 1,5 and 7-12 are pending. Claims 8,9 and 12 have been withdrawn from consideration due to a non-elected group. Claims 2-4 and 6 have been cancelled. Claims 1 and 5 have been amended.
3. Claims 1,5,7,10 and 11 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Hoyer et al. (US 4,622,390) in view of Tzikas (WO 00/06652) for the reasons set forth in the previous office action.
4. Claims 1,5,7,10 and 11 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Eichorn et al. (WO 03/080739) for the reasons set forth in the previous office action.

***Claim Objections***

5. Claim 1 is objected to because of the following informalities: it does not end in a period. Appropriate correction is required.

***Response to Arguments***

6. Applicant's arguments filed regarding Hoyer et al. (US 4,622,390) in view of Tzikas (WO 00/06652) and Eichorn et al. (WO 03/080739) have been fully considered but they are not persuasive. The applicant argues that the dyes taught in Tzikas et al. and Hoyer et al. are directed towards individual dyes and not the instantly claimed dye mixture. The examiner respectfully argues that it is well known in the dyeing art to combined dyes of different colors in di or trichromatic mixtures to dye textiles. Both Hoyer et al. and Tzikas et al. are directed to printing similar hydroxyl containing and nitrogen containing fiber materials for the benefits of high degrees of fixation (column 8, lines 30-60 and column 9, lines 10-30, respectively). This is further supported by Eichorn et al. who demonstrate combining dyes of formulas (1) and (2aa) in a single mixture (abstract, paragraphs 004-0062, example 687, wherein by the formula I-22 can be sulphonated on the terminal ring). Applicant's declaration under rule 132 filed on November 6, 2008 has been considered but is not sufficient to overcome the rejections of record because the declaration is not commensurate in scope with the instant claims. The declaration shows unexpectedly superior acid hydrolysis properties for only a combination of two species of dyes at a single concentration range while the claims are

directed to numerous dye combinations at all percentage ranges. Furthermore the prior art teach numerous species of the dyes of formulas (1) and (2aa).

### ***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amina Khan whose telephone number is (571)272-5573. The examiner can normally be reached on Monday through Friday, 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571) 272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Lorna M Douyon/  
Primary Examiner, Art Unit 1796

/Amina Khan/  
Examiner, Art Unit 1796  
April 22, 2009